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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT SEATTLE

9 SAMUEL VALDEZ,

10 Petitioner,

11 v.

12 FRED CANTRELL JR,

13 Respondent.  
14

CASE NO. C19-628 RSM

ORDER ADOPTING REPORT AND  
RECOMMENDATION

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16 This matter is before the Court on United States Magistrate Judge Mary Alice Theiler's  
17 Report and Recommendation ("R&R") advising that the Court dismiss this action. Dkt. #7.  
18 Petitioner has objected. Dkt. #8. Finding dismissal appropriate, the Court adopts the R&R.

19 Petitioner captioned his action as a "Notice of Appeal of State Court Civil Judgment."  
20 Dkt. #1. Petitioner cited to no statutory basis supporting his action and did not include an  
21 application to proceed in forma pauperis ("IFP"). *Id.* Subsequently, Petitioner filed a  
22 "Declaration and Application to Proceed in Forma Pauperis in a Federal Habeas Action."<sup>1</sup> Dkt.  
23 #5. Therein, Petitioner indicated that his action was brought pursuant to § 2254. *Id.*  
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<sup>1</sup> The Court notes that the form specifically informs applicants "DO NOT use this form if you are bringing a civil action." Dkt. #5.

1 On review, Judge Theiler reasonably interpreted Petitioner's filing as a habeas petition  
2 pursuant to 28 U.S.C. § 2254. Dkt. #7 at 1. This conclusion was all the more reasonable as  
3 Petitioner's action indicated that he sought to challenge a *civil* state court judgment and § 2254  
4 permits prisoners to challenge *criminal* state court judgments and sentences. *Id.* However,  
5 because § 2254 does not provide Petitioner the ability to challenge his state court civil judgment,  
6 Judge Theiler recommends dismissal of the action. *Id.* at 1–2.

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8 Petitioner has timely objected to the R&R, indicating that he did not intend to file a habeas  
9 petition pursuant to § 2254 but intended to file “a Civil Appeal of the State Court actions in a  
10 Civil Case when the State Court violated the Appealants [sic] Constitutional Rights.” Dkt. #8 at  
11 1, 2. Petitioner further indicated that he mistakenly filed a habeas corpus IFP application and  
12 requests that he be allowed to correct any errors. *Id.* at 2.

13 The Court concludes that the action should be dismissed for the reasons articulated in the  
14 R&R and the reasons identified in this Order. The Court is sympathetic to Petitioner's errors and  
15 requests for leeway. However, this action has been misclassified from filing because of  
16 Petitioner's errors. The Court further notes that Petitioner does not identify a clear path that  
17 permits him to “appeal” his state court civil judgment before this Court. If Petitioner does not  
18 proceed pursuant to habeas statutes, he must proceed by § 1983 action. Petitioner's current filing  
19 does not appear to invoke § 1983 or fully state a claim under that provision. Further, the Court  
20 notes significant jurisdictional concerns. The *Rooker-Feldman* doctrine prevents federal district  
21 courts from otherwise exercising jurisdiction in a narrow set of “cases brought by state-court  
22 losers complaining of injuries caused by state-court judgments rendered before the district court  
23 proceedings commenced and inviting district court review and rejection of those judgments.”  
24 *Lance v. Dennis*, 546 U.S. 459, 464 (2006) (quoting *Exxon Mobil Corp. v. Saudi Basic Indus.*

1 *Corp.*, 54 U.S. 280, 284 (2005) (quotation marks omitted). The nature of Petitioner's action  
2 appears to be precisely this.

3 For all these reasons, dismissal is warranted. However, the dismissal is without prejudice  
4 to allow Petitioner to remedy the numerous issues and properly refile his action—if he may.

5 Accordingly, having reviewed the R&R and Petitioner's objections, the Court finds and  
6 ORDERS that:

- 7 1. The Report and Recommendation (Dkt. #7) is ADOPTED.
- 8 2. Petitioner's pending application to proceed in forma pauperis (Dkt. #5) is DENIED as  
9 moot.
- 10 3. This action is DISMISSED without prejudice.
- 11 4. A certificate of appealability is DENIED. *See* 28 U.S.C. § 2253(c).
- 12 5. This action is CLOSED.

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14 Dated this 12<sup>th</sup> day of July 2019.

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17 RICARDO S. MARTINEZ  
18 CHIEF UNITED STATES DISTRICT JUDGE  
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